

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of )  
 )  
New Part 4 of the Commission's Rules )  
Concerning Disruptions to ) ET Docket No. 04-35  
Communications )

TO: The Office of Management and Budget  
and the Commission

**COMMENTS OF THE RURAL INCUMBENT LOCAL EXCHANGE CARRIERS  
ON THE INITIAL PAPERWORK REDUCTION ACT OF 1995 ANALYSIS**

The rural incumbent local exchange carriers listed in Attachment A (collectively, the Rural ILECs), by their attorney, submit these comments in response to the Commission's Initial Paperwork Reduction Act of 1995 Analysis.<sup>1</sup> The Commission's proposals to extend the outage reporting requirements to small, rural companies will often be unworkable. And the Commission's estimates of the paperwork burden fall far short of the Commission's own estimates of the increased burdens of compliance with the proposed outage reporting rules. These issues are discussed below.

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<sup>1</sup> New Part 4 of the Commission's Rules Concerning Disruptions to Communications, Notice of Proposed Rulemaking, FCC 04-30, para. 47, released Feb. 23, 2004, 69 Fed. Reg. 15,761 (Mar. 26, 2004).

## **I. The Paperwork Burden for Rural ILECs Will Interfere with the Restoration of Service**

As discussed further in the Rural ILECs' Comments (a copy of which is enclosed as Attachment B), compliance with the proposed outage reporting rules could compromise the ability of a small, rural ILEC to restore service during the crucial hours immediately after the onset of an outage. The Commission estimates that the reporting requirement would take about 5 hours per response.<sup>2</sup> This means that rural ILEC technicians would need to spend 5 hours completing an outage report at a time when they could best use their time restoring service. And even if a technician were to have the time available to file an outage report, compliance with the proposed rules for submitting an Initial Communications Outage Report may be technically infeasible in situations where faxes cannot be sent and the Internet cannot be accessed. Thus, the use of automated collection techniques for the Initial Communications Outage Report could increase the reporting burdens, rather than minimizing them.

In their Comments, the Rural ILECs suggest two ways to minimize the outage reporting burdens. First, the Commission could exempt those companies that are already subject to state outage reporting requirements. Second, for those companies that

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<sup>2</sup> 69 Fed. Reg. at 15,762.

are not subject to state outage reporting, the Commission could permit the companies to report outages orally within 24 hours of the discovery of a reportable outage. Taken together, these changes to the proposed rules would permit rural companies to focus on restoring service, rather than being distracted by duplicate or infeasible reporting requirements.

## **II. The Paperwork Burden Estimates Are Too Low**

In its Initial Paperwork Reduction Act of 1995 Analysis, the Commission estimates that there will be:

52 respondents,  
Taking 5 hours per response,  
For a total of 1,040 hours per year.<sup>3</sup>

But those numbers are the same as the ones that the Commission provided to the Office of Management and Budget (OMB) for the existing rules,<sup>4</sup> and they are far too low for the proposed expanded rules, according to the Commission's own data.

### **A. There Will Be More than 52 Respondents**

The Commission previously estimated that the existing rules result in about 52 respondents per year.<sup>5</sup> The proposed rules

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<sup>3</sup> Id.

<sup>4</sup> Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval, 67 Fed. Reg. 10,918 (Mar. 11, 2002).

<sup>5</sup> Id.

would extend the outage reporting requirements to most of the 1,337 incumbent LECs which are too small to be subject to the majority of the existing outage reporting requirements.<sup>6</sup> The proposed rules would also extend the outage reporting requirements to 1,387 wireless service providers and 324 satellite telecommunications providers which previously were not subject to outage reporting requirements.<sup>7</sup> Thus, the proposed rules would now apply to roughly 3,000 communications service providers that previously were not subject to outage reporting requirements. Thus, the number of respondents readily will exceed the Commission's estimate of 52.

**B. The Total Burden Will Be Greater Than 1,040 Hours**

The Commission estimates that the number of outage reports that would be filed under the proposed rules is more than 200 and less than 1,000.<sup>8</sup> If it takes 5 hours to complete one outage report, then the total annual burden would be more than 1,000 hours and less than 5,000 hours. Surely, the Commission's estimate of 1,040 hours is inaccurate.

In sum, both the number of respondents and the total annual burden must be adjusted upward to reflect the Commission's

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<sup>6</sup> NPRM app. C at 47.

<sup>7</sup> Id. at 48.

<sup>8</sup> Id. at 51.

proposed expansion of the reporting requirements to thousands more communications providers.

### **CONCLUSION**

The Rural ILECs have suggested ways of minimizing the reporting burdens on rural ILECs, as discussed further in their Comments. The Rural ILECs have also demonstrated that the Commission's burden estimates in its Initial Paperwork Reduction Act of 1995 Analysis fall far below the burdens calculated above using the Commission's own data. The Rural ILECs therefore request the Office of Management and Budget to decline to approve the proposed rules without the changes proposed by the Rural ILECs.

Respectfully submitted,

### **RURAL INCUMBENT LOCAL EXCHANGE CARRIERS LISTED IN ATTACHMENT A**

By



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May 25, 2004

## **ATTACHMENT A**

### **RURAL ILECs**

Big Sandy Telecom, Inc.  
Bluestem Telephone Company  
C-R Telephone Company  
Chautauqua and Erie Telephone Corporation  
China Telephone Company  
Chouteau Telephone Company  
Columbine Telecom Company  
Community Service Telephone Company  
Ellensburg Telephone Company, Inc.  
Fremont TelCom  
Great Plains Communications, Inc.  
GTC, Inc.  
Kennebec Telephone Company  
K&M Telephone Company  
Maine Telephone Company  
Marianna and Scenery Hill Telephone Company  
Northland Telephone Company of Maine, Inc.  
Odin Telephone Exchange, Inc.  
Peoples Mutual Telephone Company  
RC Communications, Inc.  
Roberts County Telephone Cooperative Association  
Sidney Telephone Company  
Standish Telephone Company, Inc.  
STE/NE Acquisition Corp. d/b/a Northland Telephone  
Company of Vermont  
Sunflower Telephone Co., Inc.  
Taconic Telephone Corp.  
The El Paso Telephone Company  
The Columbus Grove Telephone Company  
The Nebraska Central Telephone Company  
The Orwell Telephone Company  
Waitsfield-Fayston Telephone Company  
Yates City Telephone Company  
YCOM Networks, Inc.

**ATTACHMENT B**

**COMMENTS OF THE  
RURAL INCUMBENT LOCAL EXCHANGE CARRIERS**

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
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TO: The Commission

**COMMENTS OF THE RURAL INCUMBENT LOCAL EXCHANGE CARRIERS**

The rural incumbent local exchange carriers listed in Attachment A (collectively, the Rural ILECs), by their attorney, submit these comments on the Commission's proposals to extend the outage reporting requirements to include more outages experienced by small local exchange carriers (LECs).<sup>1</sup> The proposed rules duplicate many existing state regulations, and will often be unworkable for small, rural companies. The Rural ILECs request changes to the proposed rules that will take into account existing state regulations, the limited staff of rural ILECs and the demographic areas that they serve.

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<sup>1</sup> New Part 4 of the Commission's Rules Concerning Disruptions to Communications, Notice of Proposed Rulemaking, FCC 04-30, released Feb. 23, 2004 [hereinafter NPRM].



## **I. Federal Outage Reporting Requirements Should Not Duplicate State Outage Reporting Requirements**

Many states already have outage reporting requirements applicable to small LECs. For example, South Dakota requires LECs to notify the state commission about: (a) outages affecting the smaller of 25 percent or 750 or more customers in a local exchange area for a time period in excess of one hour; and (b) outages that are the result of complete switching system failures, isolation of remote switching modules from their host, or major service disruptions due to interoffice failures.<sup>2</sup> The FCC could readily obtain outage information directly from the South Dakota Public Utilities Commission and other state regulatory commissions that already collect outage information.

The proposed outage reporting rules therefore should be reworded so that they apply only in those situations where companies are not already subject to state outage reporting requirements. An opening paragraph could be added to proposed Section 4.9, as follows.

### Section 4.9

The following requirements do not apply where a communications provider is required to report outages to the relevant state regulatory authority.

(a) *Cable*. . . .

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<sup>2</sup> S.D. Admin. R. 20:10:33:28.

This change would help to minimize regulatory burdens on small LECs, consistent with the Regulatory Flexibility Act and the Paperwork Reduction Act of 1995.

## **II. Rural ILECs Should Be Afforded More Time to File the Initial Communications Outage Report**

The 120-minute deadline for filing an initial outage report is unworkable in the rural environment, and needs modification and/or clarification.

### **A. The Rural Reality - Focusing on Repairing the Network**

Small, rural ILECs do not have a full complement of technicians working 24 hours a day, 7 days a week. When an outage occurs, the technicians will first need to focus on troubleshooting the outage and restoring the network. If the outage occurs at 2 a.m. on Sunday morning, there will be no extra staff to file outage reports with the FCC. And if the public switched telephone network (PSTN) is down, it may not be technically feasible to submit an outage report via fax or via the Internet. Thus, even if technicians had the time to file an outage report, they may not be technically able to do so. By comparison, larger LECs that have remote monitoring centers that are fully staffed 24 hours a day, 7 days a week, may be able to

file outage reports because their local networks may be up even if a distant service area is down.

**B. Rural LECs Should Have the Option of Filing the Initial Report Orally Within 24 Hours**

Even if companies subject to state outage reporting requirements were exempt from the Commission's outage reporting requirements, the Commission should also exempt rural ILECs from the outage reporting requirements, or at a minimum, give rural ILECs the option of providing the initial outage reporting information orally to the FCC within the first 24 hours of an outage. An exemption for rural ILECs would recognize the unique logistics of restoring service using a limited number of staff in a rural area. Alternatively, the ability to orally provide an Initial Communications Outage Report would permit a technician to use a wireless phone to orally report a wireline outage (in cases where the wireless service is not experiencing an outage). The FCC staff receiving the call could request and record the information that would otherwise have been provided in a formal report. And if the deadline for this oral report were set at 24 hours into the outage, the technicians would be able to focus on troubleshooting the outage and restoring service before having to determine the logistics of reporting an outage to the FCC.

Granting this rule exemption, or optional filing procedure, for rural ILECs would be consistent with other situations where the Commission has recognized the unique circumstances facing rural companies. The Commission "has historically not adopted one-size-fits-all policies that might impede rather than support the provision of affordable service by rural carriers."<sup>3</sup>

**C. The Commission Should Make Clear that the Deadline Is 120 Minutes After the Outage Reaches One of the Reporting Thresholds**

If the Commission were to retain the proposed 120-minute deadline for Initial Communications Outage Reports, the Commission should clarify whether the 120-minute deadline is: (a) 120 minutes after the outage is discovered;<sup>4</sup> or (b) 120 minutes after the outage reaches a reportable threshold.<sup>5</sup> The former is unworkable. Consider an outage affecting a LEC serving 1,000 customers. To reach the 900,000 user-minute threshold, the outage would need to last 900 minutes, or 15 hours. The LEC would not know that the outage was going to last 15 hours until the 15 hours have passed. In other words, "120 minutes after the outage is discovered," the LEC would not know it had a

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<sup>3</sup> IP-Enabled Services, Notice of Proposed Rulemaking, 19 FCC Rcd. 4863 para. 75 (2004).

<sup>4</sup> NPRM para. 30 ("within 120 minutes of discovering a reportable outage").

<sup>5</sup> Id. ("within 120 minutes of becoming reportable").

"reportable outage." Thus, the only way that the 120-minute deadline would make sense is if it were "120 minutes after the outage reaches the reportable threshold."

If the Commission were to adopt this interpretation, each subsection of proposed Section 4.9 could be reworded to clarify the 120-minute deadline. For example, in proposed Section 4.9(f), the first sentence could be reworded, and an additional sentence could be inserted between the second and third sentences, as follows:

All wireline communications providers that operate transmission, routing, or switching facilities and provide interstate or international communications service shall submit outage reports to the Commission when they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration that: (1) potentially affects . . . with that facility. (DS3 minutes and user minutes are defined in paragraphs (d) and (e) of § 4.7.) An Initial Communications Outage Report shall be submitted within 120 minutes after the outage reaches one of the foregoing thresholds. Not later than thirty days . . .

**D. The 120-Minute Deadline Must Be Reconciled with the 5-Hour Estimate for Completing an Outage Report**

The deadline for filing the Initial Communications Outage Report is shorter than the time required to complete the report. On the one hand, the Commission estimates that it will take 5 hours to complete an outage report.<sup>6</sup> On the other hand, the

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<sup>6</sup> NPRM, 69 Fed. Reg. 15,761, 15,762 (Mar. 26, 2004).

Commission proposes to require communications providers to report some outages within 120 minutes after an outage lasting 30 minutes has been discovered.<sup>7</sup> But it is not possible to spend 5 hours completing an outage report in the first 1.5 hours of an outage. This disparity must be resolved. The Commission could retain the 120-minute deadline and greatly reduce the burden of filing the Initial Communications Outage Report. Alternatively, the Commission could retain Initial Communications Outage Report and increase the deadline to at least 5 hours, to allow time to complete the Report.

### **III. Airport Outage Reporting Should Be Limited to Commercial Service Airports**

The Commission proposes to extend the application of outage reporting requirements from "major airports" to "all airports,"<sup>8</sup> thereby including many smaller airports that are currently not subject to outage reporting. But the phrase "all airports" is unnecessarily broad. Consider an airstrip used by a crop duster in a rural area. Or consider a small airport used on an infrequent basis by members of a rural community for their private use. An outage of communications services to the crop

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<sup>7</sup> For example, under proposed Section 4.9(f), a LEC would need file a report within 120 minutes of discovering an outage to a special facility of at least 30 minutes duration.

<sup>8</sup> NPRM para. 24.

duster's airstrip or the rural airport is not as significant as an outage of communications services to a hub for a commercial airline. Surely, an outage of communications services to these rural airports does not necessitate the filing of an outage report with the FCC. If the Commission were to extend the outage reporting requirements to airports smaller than "major airports," the rules should not extend as far as small, rural, infrequently used airports, such as those described above.

The Rural ILECs suggest that outage reporting could extend only to "commercial service airports," as defined in 49 U.S.C. § 47102(7). A "commercial service airport" is a "public airport in a State that the Secretary [of the FAA] determines has at least 2,500 passenger boardings each year and is receiving scheduled passenger aircraft service." By extending outage reporting to commercial service airports, the Commission would capture information about outages affecting commercial aviation while refraining from unnecessarily burdening rural LECs with reporting outages to small, infrequently used airports.

#### **IV. 911 Outage Reporting Should Be Restricted to Outages Between End Offices and Public Safety Answering Points**

The wording of the proposed rule for reporting 911 outages needs clarification. Proposed Section 4.5 states: "An outage that potentially affects a 911 special facility is defined as an

outage that potentially affects the ability of a communications provider to complete 911 calls." This sentence could imply that if service is down to one end user, and the LEC cannot complete a 911 call by that end user to a Public Service Answering Point (PSAP), that outage would be reportable as "an outage that potentially affects a 911 special facility." Surely, the Commission meant for outage reporting to apply only where there is a service disruption between the LEC's end office and the PSAP. Perhaps proposed Section 4.5 could be changed to read:

An outage that potentially affects a 911 special facility is defined as an outage that potentially affects the ability of a communications provider to complete 911 calls, but does not include an outage between an end user and an end office.

#### **CONCLUSION**

Restoring service is "job one" for technicians at a rural ILEC that experiences an outage. Reporting requirements should not interfere with their work. To increase the scope of outage information obtained by the FCC while minimizing burdens on rural ILECs, the Rural ILECs suggest that: (a) communications providers subject to outage reporting at the state level should not be required to report outages to the FCC; and (b) rural LECs that are not subject to state outage reporting requirements would be permitted to provide an Initial Communications Outage Report



orally to the FCC within 24 hours after a reportable outage is discovered. However, if the 120-minute deadline for Initial Communications Outage Reports were retained, the Commission should clarify that the 120 minutes are counted after the outage reaches one of the reporting thresholds, and the Commission should greatly simplify the Initial Communications Outage Report so that it can be completed in less than 120 minutes. Finally, the Commission should limit airport outage reporting to "commercial services airports," and clarify that 911 outage reporting applies only to outages between an end office and a PSAP.

Respectfully submitted,  
**RURAL INCUMBENT LOCAL EXCHANGE CARRIERS  
LISTED IN ATTACHMENT A**

By



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May 25, 2004

**CERTIFICATE OF SERVICE**

I, Susan Bahr, Law Offices of Susan Bahr, PC, hereby certify that on this 25th day of May 2004, I caused to be sent by electronic mail a copy of the foregoing Comments to:

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Les Smith  
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A handwritten signature in cursive script that reads "Susan J Bahr".

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Susan J. Bahr